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ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231



RE: U.S. Application
Serial No: 09/655,304
Filed: SEPTEMBER 5, 2000
Group: 1763
Inventor: TSUTOMO HIROKI
For: TRANSFER APPARATUS AND
ACCOMMODATING APPARATUS FOR
SEMICONDUCTOR PROCESS, AND
SEMICONDUCTOR PROCESSING SYSTEM

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SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of \$--0-- is attached covering any required fees. In the event that any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :
TSUTOMU HIROKI : GROUP ART UNIT: 1763
SERIAL NO.: 09/655,304 :
FILED: SEPTEMBER 5, 2000 : EXAMINER: MOORE, K.

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FOR: TRANSFER APPARATUS AND ACCOMMODATING APPARATUS FOR
SEMICONDUCTOR PROCESS, AND SEMICONDUCTOR PROCESSING
SYSTEM

PROVISIONAL ELECTION

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SIR:

In response to the Restriction Requirement dated September 27, 2002, Applicant elects with traverse Group I, Claims 1-12 and 16-20, drawn to a transfer apparatus for a semiconductor process and a semiconductor process, respectively. Applicant makes this election based on the understanding that Applicant is not prejudiced against filing one or more divisional applications that cover the non-elected claims.

In addition to making this election, Applicant respectfully traverses this Restriction Requirement for the reason that the inventions of Groups I and II have not been shown to be distinct in the manner required by M.P.E.P. §806.05(c).

Concerning Groups I and II, M.P.E.P §806.05(c) requires that the Patent Office show that (1) that the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other and different relations. The Restriction Requirement states that, in reference to Groups I and II, that:

....the combination as claimed does not require the particulars of the subcombination as claimed because Group I represents a functional apparatus capable [*sic*] of processing a semiconductor without the complete subject matter of Group II. The subcombination has separate utility such as a transfer apparatus for optical devices.

However, there is no basis given in the Restriction Requirement as to how Group I functions without the complete subject matter of Group II. Further, there is no basis given for the asserted separate utility as a transfer apparatus for optical devices.

Because the required showing of both (1) that the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other and different relations has not been set forth, the Restriction Requirement fails to show that the inventions in Groups I and II are distinct. It is respectfully submitted that the outstanding restriction cannot be said to have met the requirement of MPEP §806.05(f). Accordingly, the restriction is traversed.

Furthermore, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

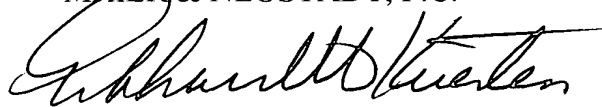
The claims of the present invention would appear to be part of an overlapping search area.

Accordingly, Applicant respectfully traverses the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would clearly be burdensome on Applicant to be required to file, prosecute and maintain separate applications and patents on the identified.

Accordingly, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 1-20 be conducted.

Respectfully submitted,

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